

House Bill 83

By: Representatives Powell of the 29th, Bearden of the 68th, and Levitas of the 82nd

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to abandoned motor vehicles, so as to define relevant terms; to provide for possessory liens on abandoned or derelict vehicles and their contents; to provide for towing and storage of vehicles; to provide for notice of abandonment; to provide notice of redemption; to provide for duties of law enforcement officers; to enumerate appropriate towing and storage fees; to provide for the sale of abandoned vehicles; to provide for lien foreclosure; to provide for hearings in magistrate court; to provide for derelict motor vehicles; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 11 of Title 40 of the Official Code of Georgia Annotated, relating to abandoned motor vehicles, is amended by revising Article 1, relating to abandoned motor vehicles generally, as follows:

"ARTICLE 1

40-11-1.

As used in this article, the term:

(1) 'Abandoned motor vehicle' means a motor vehicle or trailer and its contents:

(A) Which has been left by the owner or some person acting for the owner with an automobile dealer, ~~repairman, or wrecker service~~ or any repair facility for repair or for some other reason and has not been called for by such owner or other person within a period of 30 days after the time agreed upon; or within 30 days after such vehicle is turned over to such dealer, ~~repairman, or wrecker service~~ or repair facility when no time is agreed upon; or within 30 days after the completion of necessary repairs;

(B) Which is left ~~unattended on a public street, road, or highway or other public property for a period of at least five days and when it reasonably appears to a law enforcement officer that the individual who left such motor vehicle unattended does not intend to return and remove such motor vehicle.~~ However, on the state highway system, any law enforcement officer may authorize the immediate removal of vehicles posing a threat to public health or safety or to mitigate congestion has been left by the owner or some person acting for the owner with a towing and storage facility for a period of not less than 30 days without anyone having paid all reasonable current charges for such towing and storage;

(C) Which has been lawfully towed ~~onto the property of another~~ to a storage facility at the request of a law enforcement officer and left there for a period of not less than 30 days without anyone having paid all reasonable current charges for such towing and storage;

(D) Which has been lawfully towed ~~onto the property of another~~ from private property to an automotive storage facility at the request of a property owner ~~on whose property the vehicle was abandoned~~ or person acting for the property owner under the provisions set forth in Code Section 44-1-13 and left there for a period of not less than 30 days without anyone having paid all reasonable current charges for such towing and storage; or

(E) Which ~~has been left unattended on private property for a period of not less than 30 days~~ was being stored by agreement for an insurance company providing insurance to cover damages to the vehicle, and was left for a period of not less than 30 days past the date agreed upon.

(2) 'Derelict vehicle' means any motor vehicle that meets the criteria for determining a derelict motor vehicle as prescribed in this Code section.

~~(2)~~(3) 'Motor vehicle' or 'vehicle' means a motor vehicle or trailer and its contents.

~~(3)~~(4) 'Owner' or 'owners' means the registered owner, the owner as recorded on the title, lessor, lessee, security interest holders, and all lienholders as shown on the records of the Department of Revenue or the records from the vehicle's state of registration.

40-11-2.

(a) Any person ~~who removes a motor vehicle from public property at the request of a law enforcement officer or stores such vehicle shall, if the owner of the vehicle or some person acting for the owner is not present, seek the identity of and address of all known owners of such vehicle from the law enforcement officer requesting removal of such, from such officer's agency, from a local law enforcement agency for the jurisdiction in which the remover's or storer's place of business is located, or from the State of Georgia by direct~~

~~electronic access as provided through its agencies and authorities within three business days of removal. The local law enforcement agency shall furnish such information to the person removing such vehicle within three business days after receipt of such request or facility who legally tows, transports, or stores any motor vehicle shall have a possessory lien on the vehicle limited to towing and storage fees, plus the costs of notification, advertisement, and disposal where applicable. The vehicle's owner shall be liable for all fees incurred. Further, such lien shall include the vehicle's contents with the following exceptions: prescription drugs or eyewear, child safety restraining devices, house keys, and personal documentation such as birth or death records. This lien attaches when the person or facility acts:~~

~~(1) Under a contract with the owner or someone representing the owner;~~

~~(2) At the direction of a law enforcement officer; or~~

~~(3) At the direction of an owner or lessor, or a person authorized by the owner or lessor, of private property on which such vehicle is located, and the vehicle was removed in accordance with Code Section 44-1-13.~~

(b) Any person or facility who ~~removes~~ stores a motor vehicle that was removed from public or private property at the request of the property owner or stores such vehicle shall, if the owner of the vehicle or some person acting for the owner is not present, someone other than the vehicle owner or some person acting for the owner shall notify in writing a local law enforcement agency of the location of the vehicle, the manufacturer's vehicle identification number, license number, model, year, and make of the vehicle within three business days of the removal of such vehicle and shall seek from the local law enforcement agency or from the State of Georgia by direct electronic access as provided through its agencies and authorities the identity and address of all known owners of such vehicle and any information indicating that such vehicle is a stolen motor vehicle. The local law enforcement agency shall furnish such information to the person ~~removing~~ or facility storing such vehicle within three business days after receipt of such request.

(c) If any motor vehicle removed under conditions set forth in subsection ~~(a)~~ or (b) of this Code section is determined to be a stolen motor vehicle, the local law enforcement officer or agency shall immediately notify the storage facility of such determination, and provide to such storage facility the names and addresses of all owners, if ascertainable, and shall further notify the Georgia Crime Information Center of the location of such motor vehicle within 72 hours after receiving notice that such motor vehicle is a stolen vehicle.

(d) ~~If~~ When any motor vehicle is removed under conditions set forth in subsection ~~(a)~~ or (b) of this Code section ~~is determined not to be a stolen vehicle or is not a vehicle being repaired by a repair facility or is not being stored by an insurance company providing insurance to cover damages to the vehicle,~~ the person ~~removing~~ or facility storing such

motor vehicle shall, within seven ~~calendar~~ business days of the day such motor vehicle was removed or one business day after the information is furnished to the ~~remover~~ or storer pursuant to subsection (a) ~~or~~ (b) of this Code section, whichever is later, notify all owners, if known, by written acknowledgment signed thereby or by certified or registered mail or ~~statutory overnight delivery~~ other third-party verifiable delivery method, of the location of such motor vehicle, the fees connected with removal and storage of such motor vehicle, and the fact that such motor vehicle ~~will~~ shall be deemed abandoned under this chapter unless the owner, security interest holder, or lienholder redeems such motor vehicle within 30 days of the day such vehicle was removed. Further, such notification shall not be required if the vehicle is being repaired by a repair facility or being stored at the request of the vehicle owner or someone acting for the owner or if the vehicle is being stored by agreement for an insurance company that is providing insurance to cover damages to the vehicle.

(e) If none of the owners redeems such motor vehicle as described in subsection (d) of this Code section, or if a vehicle being repaired by a repair facility or being stored at the request of the vehicle owner or someone acting for the owner or by an insurance company that is providing insurance to cover damages to the vehicle becomes abandoned, the person ~~removing~~ or facility storing such motor vehicle shall, within seven ~~calendar~~ business days of the day such vehicle became an abandoned motor vehicle, give notice by electronic means as provided by the State of Georgia through its agencies and authorities, in writing, or by sworn statement, on the form prescribed by the state revenue commissioner, to the Department of Revenue with a research fee as fixed by rule or regulation payable to the Department of Revenue, stating the manufacturer's vehicle identification number, the license number, the fact that such vehicle is an abandoned motor vehicle, the model, year, and make of the vehicle, the date the vehicle became an abandoned motor vehicle, the date the vehicle was removed, and the present location of such vehicle and requesting the name and address of all owners of such vehicle. If the form submitted is rejected because of inaccurate or missing information, the person ~~removing~~ or facility storing the vehicle shall resubmit, within seven ~~calendar~~ business days of the date of the rejection, a corrected notice form together with an additional research fee as fixed by rule or regulation ~~payable to the Department of Revenue~~. Each subsequent corrected notice, if required, shall be submitted with an additional research fee as fixed by rule or regulation ~~payable to the Department of Revenue~~. If a person ~~removing~~ or facility storing the vehicle has knowledge of facts which reasonably indicate that the vehicle is registered or titled in a certain other state, such person or facility shall check the motor vehicle records of that other state in the attempt to ascertain the identity of the owner of the vehicle. Research requests may be submitted and research fees made payable to the office of the tax commissioner and

deposited in the general fund for the county in which the ~~remover's~~ or storer's place of business is located in lieu of the Department of Revenue, but in like manner, if such office processes motor vehicle records of the Department of Revenue.

(f) Upon ascertaining the owners of such motor vehicle, the person ~~removing~~ or facility storing such vehicle shall, within five ~~calendar~~ business days, by certified or registered mail or ~~statutory overnight delivery~~ other third-party verifiable delivery method, notify all known owners of the vehicle of the location of such vehicle and of the fact that such vehicle is deemed abandoned and shall be disposed of if not redeemed and make a demand for the payment of all applicable fees including repairs, towing, storage, and the costs of any advertisement and notification. Such written demand shall be on a form prescribed by the Department of Revenue. No such notice or written demand shall be required if, after a good faith effort, the identity of the owner cannot be ascertained.

(g) If the identity of the owners of such motor vehicle cannot be ascertained, the person ~~removing~~ or facility storing such vehicle shall place an advertisement in a newspaper of general circulation in the county where such vehicle was obtained or, if there is no newspaper in such county, shall post such advertisement at the county courthouse in such place where other public notices are posted. Such advertisement shall run in the newspaper once a week for two consecutive weeks or shall remain posted at the courthouse for two consecutive weeks. The advertisement shall contain a complete description of the motor vehicle, its license and manufacturer's vehicle identification numbers, the location from where such vehicle was initially removed, the present location of such vehicle, and the fact that such vehicle is deemed abandoned and shall be disposed of if not redeemed.

(h) The Department of Revenue shall provide to the Georgia Crime Information Center all relevant information from sworn statements described in subsection (e) of this Code section for a determination of whether the vehicles removed have been entered into the criminal justice information system as stolen vehicles. The results of the determination shall be provided electronically to the Department of Revenue and to the person or facility storing such vehicle.

(i) Any person or facility storing a vehicle under the provisions of this Code section shall notify the Department of Revenue if the vehicle is recovered, is claimed by the owner, is determined to be stolen, or for any reason is no longer an abandoned motor vehicle. Such notice shall be provided within seven ~~calendar~~ business days of such event.

(j) If vehicle information on the abandoned motor vehicle is not in the files of the Department of Revenue, the department may require such other information or confirmation as it determines is necessary or appropriate to determine the identity of the vehicle.

(k) Any person ~~who does not provide the notice and information required by this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor, shall not be entitled to any storage fees, shall not be eligible to contract with or serve on a rotation list providing wrecker services for this state or any political subdivision thereof, and shall not be licensed by any municipal authority to provide removal of improperly parked cars under Code Section 44-1-13~~ or facility who provides wrecker services for this state or any political subdivision thereof, either by contract, rotation list, or by other agreement, shall prove their knowledge of the provisions of this article, as well as their ability and willingness to comply with such provisions prior to participating in any such contract, agreement, or rotation list. Further, any person or facility who does not provide the notice and information required by this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor and shall be entitled to storage fees only for the period that the Department of Revenue deems such person or facility was in compliance with this Code section.

(l) Any person or facility who knowingly provides false or misleading information when providing any notice or information as required by this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor; shall be removed from any contract or rotation list providing wrecker services for this state or any political subdivision thereof; shall not be licensed by the Public Service Commission or any municipal authority to provide removal of improperly parked vehicles under Code Section 44-1-13 for a period of six months; and shall not be eligible for reinstatement of such authority or license until all abandoned vehicles being stored by that person or facility are legally disposed of.

40-11-3.

(a) Any peace officer who finds a motor vehicle which has been left unattended on a public street, road, or highway or other public property for a period of at least ~~five~~ two days shall be authorized to cause such motor vehicle to be removed to ~~a garage or other place of safety, if such peace officer reasonably believes that the person who left such motor vehicle unattended does not intend to return and remove such motor vehicle~~ an automotive storage facility.

(b) Any law enforcement officer who finds a motor vehicle which has been left unattended on the state highway system shall be authorized to cause such motor vehicle to be removed immediately to ~~a garage or other place of safety~~ an automotive storage facility when such motor vehicle poses a threat to public health or safety or to mitigate congestion. Any peace officer who finds a motor vehicle which has been left unattended on a public street, road, or highway or other public property, other than the state highway system, shall be

authorized immediately to cause such motor vehicle to be removed immediately to ~~a garage or other place of safety~~ an automotive storage facility when such motor vehicle poses a threat to public health or safety or to mitigate congestion.

(c) Any peace officer who, under this Code section, causes any motor vehicle to be removed to ~~a garage or other place of safety~~ an automotive storage facility shall be liable for gross negligence only.

(d)(1) Any peace officer or the law enforcement agency which causes a motor vehicle to be removed to ~~a garage or other place of safety~~ an automotive storage facility or which is notified of the removal of a motor vehicle from private property shall within 72 hours from the time of removal or notice and if the owner is unknown attempt to determine vehicle ownership through official inquiries to the Department of Revenue vehicle registration and vehicle title files. These inquiries shall be made from authorized criminal justice information system network terminals.

(2) If the name and address of the last known registered owner of the motor vehicle is obtained from the Georgia Crime Information Center, the peace officer who causes the motor vehicle to be removed shall, within three calendar days, make available to the person or facility removing such motor vehicle the name and address of the last known registered owner of such motor vehicle, the owner of the motor vehicle as recorded on the title of such vehicle, and all security interest holders or lienholders. If such information is not available, the peace officer shall, within three calendar days, notify the person or facility removing or storing such vehicle of such fact.

(3) Law enforcement agencies shall make record entries in Georgia criminal justice information system files through authorized criminal justice information system network terminals after an unsuccessful attempt to obtain vehicle ownership information and shall remove the record entries when ownership is determined.

40-11-3.1.

(a) It shall be the duty of any peace officer who discovers a motor vehicle which has been left unattended on a public street, road, or highway or other public property to immediately perform an unattended vehicle check on such motor vehicle, unless there is displayed on such motor vehicle an unattended vehicle check card indicating that another peace officer has already performed such an unattended vehicle check. For purposes of this Code section, an unattended vehicle check shall consist of such actions as are reasonably necessary to determine that the unattended vehicle does not contain an injured or incapacitated person and to determine that the unattended vehicle does not pose a threat to public health or safety.

(b) A peace officer completing an unattended vehicle check shall complete and attach to the vehicle an unattended vehicle check card. Unattended vehicle check cards shall be in such form, and shall be attached to vehicles in such manner, as may be specified by rule or regulation of the Department of Public Safety; and to the extent that sufficient funds are available to the department, the department may distribute such forms free of charge to law enforcement agencies in this state. Unattended vehicle check cards shall be serially numbered; shall be of a distinctive color and shape, so as to be readily visible to passing motorists; and shall contain spaces for the investigating police officer to indicate the location of the vehicle, the date and time of the completion of the unattended vehicle check, and the name of such peace officer's law enforcement agency. A detachable stub, which shall be filed with the investigating peace officer's law enforcement agency, shall bear the same serial number and shall contain the same information, together with the identity of the investigating peace officer and the license plate number and other pertinent identifying information relating to the abandoned vehicle.

(c) Nothing in the Code section shall limit the otherwise applicable authority of a peace officer to have an unattended motor vehicle removed to ~~a garage or other place of safety~~ an automotive storage facility.

(d) It shall be unlawful for any person other than a peace officer to attach a genuine or counterfeit unattended motor vehicle check card to a motor vehicle; and any person convicted of violating this subsection shall be guilty of a misdemeanor.

40-11-3.2.

(a) It shall be unlawful for the owner or operator of a paid private parking lot or paid private parking facility located within 500 feet of an establishment which serves alcoholic beverages for consumption on the premises to remove, tow, or immobilize or cause to be removed, towed, or immobilized a motor vehicle left in such lot or facility between midnight and noon of the following day. Nothing in this Code section shall prohibit the owner of such a parking lot or facility from charging a penalty not to exceed \$25.00 in excess of normal parking fees for vehicles which remain on the property during such period without authorization. No owner or operator of such a parking lot or facility shall be liable for any damages to any motor vehicle remaining on the property during such period without authorization. Nothing in this Code section shall prohibit a resident or a business owner from towing or removing or causing to be towed or removed a motor vehicle left on private property. For purposes of this subsection, the terms 'paid private parking lot' and 'paid private parking facility' mean private parking lots where the owner or operator of a motor vehicle pays a valuable consideration for the right to park in such parking lot or parking facility.

277 (b) Any person violating the provisions of subsection (a) of this Code section shall be
278 guilty of a misdemeanor.

279 40-11-4.

280 ~~(a) Any person who removes or stores any motor vehicle which is or becomes an~~
281 ~~abandoned motor vehicle shall have a lien on such vehicle for the reasonable fees~~
282 ~~connected with such removal or storage plus the cost of any notification or advertisement.~~
283 ~~Such lien shall exist if the person moving or storing such vehicle is in compliance with~~
284 ~~Code Section 40-11-2.~~

285 (b) The lien acquired under subsection (a) of ~~this Code section~~ Code Section 40-11-2 may
286 be foreclosed in any court which is competent to hear civil cases, including, but not limited
287 to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount
288 of the lien does not exceed the jurisdictional limits established by law for such courts.

289 40-11-5.

290 All liens acquired under Code Section 40-11-4 shall be foreclosed as follows:

291 (1) Any proceeding to foreclose a lien on an abandoned motor vehicle ~~must~~ shall be
292 instituted within one year from the time the lien is recorded or is asserted by retention;
293 (2) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by
294 certified or registered mail or ~~statutory overnight delivery~~ other third-party verifiable
295 delivery method, make a demand upon the owners for the payment of the reasonable fees
296 for removal and storage plus the costs of any notification or advertisement. Such written
297 demand shall include an itemized statement of all charges and may be made concurrent
298 with the notice required by subsection (f) of Code Section 40-11-2. Such demand shall
299 be made on a form prescribed by rule or regulation of the Department of Revenue and
300 shall notify the owner of his or her right to a judicial hearing to determine the validity of
301 the lien. The demand shall further state that failure to return the written demand to the
302 lien claimant, file with a court of competent jurisdiction a petition for a judicial hearing,
303 and provide the lien claimant with a copy of such petition, all within ten days of delivery
304 of the lien claimant's written demand, shall effect a waiver of the owner's right to such
305 a hearing prior to sale. The form shall also provide the suspected owner with the option
306 of disclaiming any ownership of the vehicle, and his or her affidavit to that effect shall
307 control over anything contrary in the records of the Department of Revenue. No such
308 written demand shall be required if the identity of the owner cannot be ascertained and
309 the notice requirements of subsection (g) of Code Section 40-11-2 have been complied
310 with;

(3)(A) If, within ten days of delivery to the appropriate address of the written demand required by paragraph (2) of this Code section, the owner of the abandoned motor vehicle fails to pay or file with the court a petition for a judicial hearing with a copy to the lien claimant in accordance with the notice provided pursuant to paragraph (2) of this Code section, or if the owner of the abandoned motor vehicle cannot be ascertained, the person or facility ~~removing or~~ storing the abandoned motor vehicle may foreclose such lien. The person or facility asserting such lien may move to foreclose by making an affidavit to a court of competent jurisdiction, on a form prescribed by rule or regulation of the Department of Revenue, showing all facts necessary to constitute such lien and the amount claimed to be due. Such affidavit shall aver that the notice requirements of Code Section 40-11-2 have been complied with, and such affidavit shall also aver that a demand for payment in accordance with paragraph (2) of this Code section has been made without satisfaction or without a timely filing of a petition for a judicial hearing or that the identity of the owner cannot be ascertained. The person or facility foreclosing shall verify the statement by oath or affirmation and shall affix his, ~~or her,~~ or its agent's signature thereto.

(B) Regardless of the court in which the affidavit required by this paragraph is filed, the fee for filing such affidavit shall be \$10.00 per motor vehicle upon which a lien is asserted, plus \$15.00 for the state indigent defense fund. No additional fees or moneys shall be added to the cost of this filing, except where a full hearing is requested and subsequently granted by the court. In such case, the court hearing the case shall be authorized to assess its normal fee for such a hearing;

(4) If no timely petition for a hearing has been filed with a court of competent jurisdiction, then, upon such affidavit's being filed by the lien claimant pursuant to paragraph (3) of this Code section, the lien ~~will~~ shall conclusively be deemed a valid one and foreclosure thereof allowed;

(5) If a petition for a hearing is filed with a court of competent jurisdiction within ten days after delivery of the lien claimant's demand, a copy of which demand shall be attached to the petition, the court shall set such a hearing within ten business days of filing of the petition;

(6) Upon the filing of such petition by an owner, neither the lien claimant nor the court may sell the motor vehicle, although possession of the motor vehicle may be retained by the lien claimant or obtained by the court in accordance with the order of the court which sets the date for the hearing;

(7) If, after a full hearing, the court finds that a valid debt exists, then the court shall authorize foreclosure upon and sale of the motor vehicle subject to the lien to satisfy the debt if such debt is not otherwise immediately paid;

(8) If the court finds the actions of the person or facility asserting the lien in retaining possession of the motor vehicle were not taken in good faith, then the court, in its discretion, may award damages to the owner, any party which has been deprived of the rightful use of the vehicle, or the lessee due to the deprivation of the use of the motor vehicle; and

(9) If an affidavit meeting the requirements of paragraph (3) of this Code section is filed and no petition for a hearing is timely filed, or if, after a full hearing, the court determines that a valid debt exists, the court shall issue an order authorizing the sale of such motor vehicle. However, the holder of a security interest in or a lien on the vehicle, other than the holder of a lien created by subsection (a) of Code Section 40-11-4 40-11-2, shall have the right, in the order of priority of such security interest or lien, to pay the debt and court costs. If the holder of a security interest or lien does so pay the debt and court costs, he or she shall have the right to possession of the vehicle, and his or her security interest in or lien on such vehicle shall be increased by the amount so paid. A court order shall be issued to this effect, and in this instance there shall not be a sale of the vehicle.

40-11-6.

(a) Upon order of the court, the person or facility holding the lien on the abandoned motor vehicle shall be authorized to sell such motor vehicle at public sale, as defined by Code Section 11-1-201.

(b) After satisfaction of the lien, the person or facility selling such motor vehicle shall, not later than 30 days after the date of such sale, provide the clerk of the court with a copy of the bill of sale as provided to the purchaser and turn the remaining proceeds of such sale, if any, over to the clerk of the court. Any person or facility who fails to comply with the requirements of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor.

40-11-7.

The purchaser at a sale as authorized in this article shall receive a certified copy of the court order authorizing such sale. Any such purchaser may obtain a certificate of title to such motor vehicle by filing the required application, paying the required fees, and filing a certified copy of the order of the court with the Department of Revenue. The Department of Revenue shall then issue a certificate of title, which shall be free and clear of all liens and encumbrances.

40-11-8.

The clerk of the court shall retain the remaining balance of the proceeds of a sale under Code Section 40-11-6, after satisfaction of liens, security interests, and debts, for a period of 12 months; and, if no claim has been filed against such proceeds by the owner of the abandoned motor vehicle or any interested party, then he or she shall pay return such remaining balance ~~as follows:~~ to the repair or towing and storage facility that initiated the foreclosure.

~~(1) If the abandoned motor vehicle came into the possession of the person creating the lien other than at the request of a peace officer, the proceeds of the sale shall be divided equally and paid into the general fund of the county in which the sale was made and into the general fund of the municipality, if any, in which the sale was made;~~

~~(2) If the abandoned motor vehicle came into the possession of the person creating the lien at the request of a police officer of a municipality, the proceeds of the sale shall be paid into the general fund of the municipality;~~

~~(3) If the abandoned motor vehicle came into the possession of the person creating the lien at the request of a county sheriff, deputy sheriff, or county police officer, the proceeds of the sale shall be paid into the general fund of the county in which the sale was made;~~

~~(4) If the abandoned motor vehicle came into the possession of the person creating the lien at the request of a member of the Georgia State Patrol or other employee of the State of Georgia, the proceeds of the sale shall be paid into the general fund of the county in which the sale was made.~~

40-11-9.

(a) If a motor vehicle has been left unattended on private property for not less than two days or on public property for not less than three days without the owner or driver making any attempt to recover such vehicle or to leave a conspicuously placed note that such owner or driver intends to return for such vehicle; or, if a conspicuous note was left, if the motor vehicle has been left unattended for not less than five days and if because of damage, vandalism, theft, or fire the vehicle is damaged to the extent that its restoration to an operable condition would require the replacement of one or more major component parts or involves any structural damage that would affect the safety of the vehicle; or if there is evidence that the vehicle was inoperable due to major mechanical breakdown at the time it was left on the property, such as the engine, transmission, or wheels missing, no coolant in the cooling system, no oil in the engine, or burned fluid in the transmission; or if the vehicle is seven or more years old; or if the vehicle is not currently tagged or is not verifiable by the state as to who is the current owner or lienholder of the vehicle; or if the

vehicle has been abandoned to a wrecker service by an insurance company and the owner following the insurance company's making a total loss payment, then any person or facility removing such vehicle shall within ~~72 hours~~ three business days of removing such vehicle obtain the identity of and address of the last known registered owner of the vehicle, the owner of the vehicle as recorded on the certificate of title of such vehicle, and any security interest holder or lienholder on such vehicle from the local law enforcement agency of the jurisdiction in which the vehicle was located. If the law enforcement agency shows no information on the vehicle, then a request for such information shall be sent to the Department of Revenue. Within ~~72 hours~~ three business days after obtaining such information, the person or facility removing such vehicle shall, by certified mail ~~or statutory overnight delivery~~, return receipt requested, or personal written acknowledgment, or other third-party verifiable delivery method requiring signature, notify the registered owner, title owner, and security interest holder or lienholder of the vehicle that such vehicle ~~will~~ shall be declared a derelict vehicle and the title to such vehicle ~~will~~ shall be canceled by the Department of Revenue if such person or persons fail to respond within ten business days of receipt of such notice. The state revenue commissioner shall prescribe the form and content of such notice. If the registered owner, title owner, or security interest holder or lienholder fails to respond within 30 business days from the date of such notice by certified mail ~~or statutory overnight delivery~~ other third-party verifiable delivery method, and if the vehicle is appraised as having a total value of less than \$300.00, the vehicle shall be considered to be a derelict vehicle. The value of the vehicle shall be determined as 50 percent of the wholesale value of a similar car in the rough section of the *National Auto Research Black Book, Georgia Edition*, or if a similar vehicle is not listed in such book or, regardless of the model year or book value of the vehicle, if the vehicle is completely destroyed by fire, flood, or vandalism or is otherwise damaged to the extent that restoration of the vehicle to a safe operable condition would require replacement of more than 50 percent of its major component parts, the person or facility shall obtain an appraisal of the motor vehicle from the local law enforcement agency's auto theft section with jurisdiction in the county or municipality where such vehicle is located. Any person or facility removing a vehicle shall complete a form, to be provided by the Department of Revenue, indicating that the vehicle meets at least four of the above-stated eight conditions for being a derelict vehicle and shall file such form with the Department of Revenue and the law enforcement agency with jurisdiction from which such vehicle was removed.

(b) Upon determination that a vehicle is a derelict motor vehicle as provided in subsection (a) of this Code section, it may be disposed of by sale to a person ~~who~~ or facility which scraps, dismantles, or demolishes motor vehicles, provided that such vehicle may be sold for scrap or parts only and shall in no event be rebuilt or sold to the general public.

Any person disposing of a derelict motor vehicle shall, prior to disposing of such vehicle, photograph such vehicle and retain with such photograph the appraisal required in subsection (a) of this Code section and the notice to the Department of Revenue required in this subsection for a period of three years after its disposition. Such person shall also notify the Department of Revenue of the disposition of such vehicle in such manner as may be prescribed by the state revenue commissioner. The Department of Revenue shall cancel the certificate of title for such vehicle and shall not issue a rebuilt or salvage title for such vehicle.

(c) For purposes of this Code section, the term 'derelict vehicle' shall not include a vehicle which does not bear a manufacturer's vehicle identification number plate or a vehicle identification number plate assigned by a state jurisdiction.

(d) Any owner or person acting for the owner who abandons a derelict motor vehicle on public or private property shall be ~~guilty of a misdemeanor and upon conviction shall be fined not more than \$500.00 and shall pay~~ liable for all costs of having such derelict motor vehicle removed, stored, and sold as provided for in this Code section. ~~Notwithstanding any other provision of law to the contrary, such fines shall be disposed as follows:~~

~~(1) If the abandoned motor vehicle was removed other than at the request of a peace officer, the moneys arising from the fine shall be divided equally and paid into the general fund of the county in which the offense was committed and into the general fund of the municipality, if any, in which the offense was committed;~~

~~(2) If the abandoned motor vehicle was removed at the request of a police officer of a municipality, the moneys arising from the fine shall be paid into the general fund of the municipality;~~

~~(3) If the abandoned motor vehicle was removed at the request of a county sheriff, deputy sheriff, or county police officer, the moneys arising from the fine shall be paid into the general fund of the county in which the offense was committed; and~~

~~(4) If the abandoned motor vehicle was removed at the request of a member of the Georgia State Patrol or other employee of the State of Georgia, the moneys arising from the fine shall be paid into the general fund of the county in which the offense was committed.~~

(e) Any person or facility removing a derelict motor vehicle who fails to comply with the requirements of this Code section or who knowingly provides false or misleading information when providing any notice or information required by this Code section shall be guilty of a misdemeanor.

(f) Neither the State of Georgia nor any state agency nor the person or facility removing, storing, and processing the vehicle unless recklessly or grossly negligent shall be liable to

489 the owner of a vehicle declared to be a derelict motor vehicle pursuant to this Code section
490 or an abandoned motor vehicle."

491 **SECTION 2.**

492 All laws and parts of laws in conflict with this Act are repealed.